

EXHIBIT B

Page 1

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF NEW YORK

-----X
3 JOBAR HOLDING CORPORATION, ROBERT BUCK,
4 INDIVIDUALLY, AND ROBERT BUCK, AS EXECUTOR
5 OF THE ESTATE OF JOAN BUCK, AND ROBERT
6 BUCK, INDIVIDUALLY, AND ROBERT BUCK AS
7 EXECUTOR OF THE ESTATE OF JOAN BUCK,
8 DERIVATIVELY AS SHAREHOLDER ON BEHALF OF
9 JOBAR HOLDING CORPORATION,
10 Plaintiffs,

Index No.:
655689/2017

11 -against-
12 BARBARA HALIO,
13 Defendants.

-----X

14 DATE: January 19, 2023

15 TIME: 10:00 a.m.

16 DEPOSITION of DAVID HALIO, a
17 NON-PARTY WITNESS, taken by the Plaintiff,
18 pursuant Subpoena, held at the Offices of
19 Scarinci Hollenbeck, 589 8th Avenue, 16th
20 floor, New York, New York 10018, at
21 above-mentioned date and time, before
22 MARINA DUBSON, a Notary Public of the State
23 of New York.

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1 D. Halio
2 Q. Would you read the April 25th
3 entry, please.
4 MR. WEISS: The typewritten
5 entry?
6 Q. Yeah, the second entry.
7 A. It says: Jobar Holding account
8 used by Barbara Halio to pay --
9 Q. No, no, not that. Not the
10 handwriting. Ignore the handwriting. Just
11 the typewritten, I'm sorry.
12 A. Which one?
13 Q. April 25th.
14 A. Where's April 25th?
15 Q. It's the second entry.
16 A. It says: Debt to Citibank.
17 Medical liability insurance, David A.
18 Halio, MD.
19 Q. What is the amount?
20 A. 43,995.
21 Q. And was that amount, to your
22 knowledge, paid to your insurer?
23 A. I write my own checks to the
24 insurance company.
25 Q. So you never had Jobar pay your

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1 D. Halio
2 medical liability insurance?
3 A. They never paid my medical
4 liability insurance.
5 Q. And they never sent any money
6 to your insurer?
7 A. I would have to look at the
8 check, I don't recall.
9 Q. Well, it's not a check. This
10 is a bank transfer.
11 MR. WEISS: What's the
12 question?
13 Q. You're not aware of Jobar
14 having made a bank transfer to your insurer
15 of 43,996 in 2013?
16 A. I am aware that I had to pay my
17 malpractice in that same exact amount, but
18 I wasn't aware.
19 Q. You weren't aware that Jobar
20 sent money?
21 A. I wasn't aware of that.
22 Q. Yeah. So is it your impression
23 that you paid twice?
24 MR. WEISS: Objection.
25 A. I don't understand your

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1 D. Halio
2 question.
3 Q. This says Jobar sent that
4 amount, and you say you paid that amount.
5 Wouldn't that be paying it twice?
6 MR. WEISS: Objection.
7 You can answer.
8 A. It wasn't paid twice.
9 MR. BRECHER: Well, I call for
10 the production of your payment to
11 your medical malpractice insurer of
12 that amount in that year, in 2013.
13 (Request noted.)
14 MR. WEISS: Take it under
15 advisement.
16 Q. So your testimony is that Jobar
17 never lent you any money to pay your
18 medical malpractice insurance?
19 MR. WEISS: Objection.
20 Q. Is that your testimony?
21 MR. WEISS: Can you just ask a
22 question?
23 Q. Did Jobar Holding Corporation
24 ever pay any of your medical malpractice
25 insurance?

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1 D. Halio
2 A. I don't recall.
3 Q. Did you ever repay Jobar for
4 paying your medical malpractice insurance?
5 A. No.
6 Q. Did you ever tell anyone that
7 you repaid Jobar for paying your medical
8 malpractice insurance?
9 A. No.
10 Q. Has anyone ever asked you
11 before whether that happened?
12 A. No.
13 Q. Look at the next page. And
14 again, on all of these, please ignore the
15 handwritten entries, those are mine.
16 The next page is Jobar 578.
17 The statement for May 2013.
18 MR. WEISS: I'm sorry. You
19 said Jobar 578. Mine says 616.
20 MR. RICE: So does mine. The
21 third page is 578.
22 MR. BRECHER: Okay. Well, my
23 copy didn't have it. Can somebody
24 lend me their page? My copy doesn't
25 have it for some reason.

18 (Pages 66 - 69)

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1 D. Halio
 2 MR. WEISS: Are you looking for
 3 616 or 578?
 4 MR. BRECHER: I have 578. I
 5 don't have 616.
 6 MR. RICE: Just let us know
 7 which one you're --
 8 MR. BRECHER: 616.
 9 Q. The entry for November 22nd
 10 says: Transfer to 7165. You also stated
 11 that's your account, right?
 12 A. Yes.
 13 Q. And the \$15,000 transfer, did
 14 you ever -- I'm sorry. It's a check. Did
 15 you ever receive a check for \$15,000 from
 16 Jobar in that period?
 17 A. I don't recall.
 18 Q. Did you ever receive a wire
 19 transfer during that period for \$15,000?
 20 A. I don't recall.
 21 Q. Apparently I misspoke. It's a
 22 wire transfer, not a check.
 23 Turn to next page, Jobar 618
 24 for the period November 30th, 2013, through
 25 December 31, 2013. Do you have that, 618?

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1 D. Halio
 2 MR. RICE: That's the fourth
 3 page. Are we skipping page 578?
 4 MR. BRECHER: For the moment.
 5 MR. WEISS: Okay.
 6 Q. Do you see that's another wire
 7 transfer?
 8 MR. WEISS: Just so we're
 9 clear, we're on 618, correct?
 10 Q. 618, second entry, December
 11 20th, 2013, a wire transfer again to
 12 Checking Account 7165. That's your
 13 account, correct?
 14 A. It is.
 15 Q. And it's for \$60,000, correct?
 16 A. Which one is that?
 17 Q. The second entry. The one at
 18 12/20.
 19 A. Correct.
 20 Q. And did you receive that
 21 amount?
 22 A. I don't recall.
 23 Q. Did you ask anyone to send you
 24 \$60,000 from Jobar?
 25 A. No, I did not.

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1 D. Halio
 2 Q. Did anyone tell you they had
 3 sent \$60,000 to you?
 4 A. No.
 5 Q. All right. Turn back to 578.
 6 There is a Jobar Production 578 for the
 7 period May 2013 through May 31, 2013. And
 8 you see the **second** entry, again, May 3rd to
 9 Checking Account 7165. Is that your
 10 account?
 11 A. Yes, it is.
 12 Q. And it's for \$50,000, correct?
 13 A. Yes, it is.
 14 Q. Do you recall receiving that
 15 amount in a wire transfer on May 3rd, 2013?
 16 A. I don't recall.
 17 Q. Did anyone tell **you** that they
 18 had sent **you** a wire transfer of that
 19 amount?
 20 A. No.
 21 Q. Did you ever ask for it?
 22 A. No.
 23 Q. Turn to the Check Number 1091
 24 for \$50,000 dated October 21, 2012, from
 25 Jobar Holding Corp. in the amount of

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1 D. Halio
 2 \$50,000. Did you receive that check?
 3 A. Yes.
 4 Q. Did you deposit that check in
 5 your account 7165?
 6 A. I don't recall.
 7 Q. You see the back of the check
 8 below it?
 9 A. Yes.
 10 Q. Is that your handwriting?
 11 A. Yes.
 12 Q. Do you **recall signing this**
 13 **check and depositing it into your** account?
 14 A. I don't recall. I don't
 15 remember.
 16 Q. Do you have any reason to doubt
 17 that you deposited it in your account?
 18 A. No.
 19 Q. You see the check says loan,
 20 correct?
 21 A. Yes.
 22 Q. Was this a loan to you of
 23 \$50,000?
 24 A. That's what the check says.
 25 Q. Is that correct?

19 (Pages 70 - 73)

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1 D. Halio
2 A. The check says loan.
3 Q. Do you dispute it?
4 A. No.
5 Q. Turn to the next check dated
6 10 -- Number 1069 in the amount of \$20,000,
7 dated March 2nd, 2013, payable to David
8 Halio. Did you receive this check?
9 A. Yes.
10 Q. Did you deposit it in your
11 account?
12 A. I don't recall.
13 Q. Do you have any reason to
14 question whether you deposited it in your
15 account?
16 A. No.
17 Q. Do you see where it says loan?
18 A. Yes.
19 Q. Was this a loan to you of
20 \$20,000?
21 A. Yes.
22 Q. Did you repay it?
23 A. No.
24 Q. Did you repay the \$50,000 loan
25 that's Check Number 1081?

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1 D. Halio
2 A. No.
3 Q. Turn to the next check, 1075.
4 the next page dated April 13th, 2013, in
5 the amount of \$10,000 payable to David
6 Halio. Did you receive this check?
7 A. Yes.
8 Q. Is that your signature?
9 A. Yes.
10 Q. Did you deposit it in your
11 account?
12 A. I don't recall.
13 Q. You see it says loan?
14 A. Yes.
15 Q. This was a loan?
16 A. Yes.
17 Q. Did you repay it?
18 A. No.
19 Q. Turn to the next page. Check
20 Number 1242 is on the Barbara Halio
21 account, payable to David Halio, MD, in the
22 amount of \$30,000, dated April 25th, 2020.
23 Did you receive this check?
24 A. Yes.
25 Q. Did you deposit it in your

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1 D. Halio
2 account?
3 A. I don't recall.
4 Q. Look at the back of the check.
5 A. Then the answer's yes.
6 Q. You did deposit it in your
7 account?
8 A. It was deposited.
9 Q. Yes. What was this check for?
10 A. I don't recall.
11 Q. Well, see where it says on the
12 memo part, is that your mother's
13 handwriting?
14 A. Yes, it is.
15 Q. You would recognize your
16 mother's handwriting?
17 A. Yes, I will -- do.
18 Q. What does it say?
19 A. I can't read it.
20 Q. Does it say: Repayment,
21 parentheses, IRS insurance loan?
22 A. It's illegible to me.
23 Q. You can't tell?
24 A. I see it says IRS loan.
25 Q. Well, is that what it's for?

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1 D. Halio
2 A. I don't recall.
3 Q. You don't know what this check
4 was for?
5 A. I don't know.
6 Q. It wasn't for the repayment of
7 IRS insurance loan?
8 A. I don't recall.
9 Q. Was there an episode in which
10 you lent your mother money to repay a loan?
11 A. I repaid my mother, but I don't
12 recall the episode.
13 Q. You repaid this amount to your
14 mother?
15 A. I repaid my mother over all of
16 these years.
17 Q. I'm talking about this specific
18 check.
19 A. I don't remember.
20 Q. How did you repay her?
21 A. How did I repay her?
22 Q. Well, when you repaid her, what
23 do you mean?
24 A. I mean, I don't recall the
25 exact amount.

20 (Pages 74 - 77)

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1 D. Halio
2 Q. Do you see about five lines
3 from the end of paragraph 6 where your
4 mother says that she was the executor of
5 Kitty Buck's estate? Do you know if that's
6 correct?
7 A. I see where it says, yes.
8 Q. And do you see the last line of
9 paragraph 6 where it says: Robert's
10 sister, Otilie, was entitled to a share of
11 the holdback and she was paid from it?
12 A. Yes, sir.
13 Q. Do you know if that's correct?
14 A. That's correct.
15 Q. Did someone tell you that? How
16 do you know that?
17 A. Because, like I said before, I
18 wasn't following the goings on of Jobar,
19 but that is correct.
20 Q. Did you ever speak to Otilie
21 about money that she received?
22 A. I never discussed anything
23 about money with Otilie.
24 Q. In paragraph 8, your mother
25 says that her sole source of income is

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1 D. Halio
2 Social Security and money that my children
3 give me to pay for my expenses.
4 Do you give her money to pay
5 for her expenses?
6 A. I help her.
7 Q. In what size amount have you
8 given her this year?
9 A. I don't recall.
10 Q. Last year?
11 A. I don't recall.
12 Q. You don't recall. The same
13 answer -- would the answer be the same for
14 the years 2007 through 2021?
15 A. I don't recall every year. I
16 didn't help her every year.
17 Q. You didn't help her every year?
18 A. No.
19 Q. When did you help her?
20 MR. WEISS: Hold on.
21 MR. BRECHER: No. I'm talking
22 about --
23 MR. WEISS: Hold on.
24 Objection.
25 MR. BRECHER: Let me rephrase

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1 D. Halio
2 the question and ignore the
3 objection. I understand the problem.
4 Q. What type of expenses would you
5 help your mother with?
6 MR. WEISS: I'm going to make
7 an objection and ask for a proffer,
8 what it has to do with this case.
9 MR. BRECHER: The case is about
10 Barbara Halio claiming that she
11 needed to take the money from Jobar
12 because she had no other way of
13 supporting herself. The witness has
14 testified that he helped her, so it's
15 relevant in that regard.
16 MR. WEISS: I will withdraw my
17 objection to a certain extent, and
18 then I'll let you know --
19 MR. BRECHER: I'm not going to
20 go too far into this. I just want to
21 have an understanding of what he
22 helped her with.
23 MR. WEISS: Okay.
24 Q. What type of expense were you
25 helping your mother with?

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1 D. Halio
2 A. I don't recall.
3 Q. Was it every year?
4 A. Not every year.
5 Q. Was it the majority of the
6 years from 2006 to 2021?
7 A. I don't recall.
8 Q. There's a bank borrowing
9 against the Foxhurst home, correct?
10 A. I don't know that.
11 Q. You don't know that Chase has a
12 mortgage on the property?
13 A. I know my mother pays the
14 mortgage because she had a home equity loan
15 to keep the business called Cape Masters
16 afloat all of these years. It was all
17 coming from her to keep the business
18 afloat. Every month she had to pay
19 Washington Mutual a certain amount of
20 money, because if you know the history of
21 the business --
22 MR. WEISS: Just answer his
23 question.
24 THE WITNESS: Okay.
25 Q. Well, in any of these mortgage

27 (Pages 102 - 105)